

PROCEDURE 3. RETENTION OF INFORMATION ABOUT UNITED STATES PERSONS

A. APPLICABILITY

This procedure governs the kinds of information about United States persons that may knowingly be retained by a DoD intelligence component without the consent of the person whom the information concerns. It does not apply when the information in question is retained solely for administrative purposes or is required by law to be maintained.

B. EXPLANATION OF UNDEFINED TERMS

The term "retention," as used in this procedure, refers only to the maintenance of information about United States persons which can be retrieved by reference to the person's name or other identifying data.

C. CRITERIA FOR RETENTION

1. Retention of information collected under Procedure 2. Information about United States persons may be retained if it was collected pursuant to Procedure 2.

2. Retention of Information Acquired Incidentally. Information about United States persons collected incidentally to authorized collection may be retained if:

a. Such information could have been collected intentionally under Procedure 2;

b. Such information is necessary to understand or assess foreign intelligence or counterintelligence;

c. The information is foreign intelligence or counterintelligence collected from electronic surveillance conducted in compliance with this Regulation; or

d. Such information is incidental to authorized collection and may indicate involvement in activities that may violate federal, state, local, or foreign law.

3. Retention of information relating to functions of other DoD Components or non-DoD Agencies. Information about United States persons that pertains solely to the functions of other DoD Components or agencies outside the Department of Defense shall be retained only as necessary to transmit or deliver such information to the appropriate recipients.

4. Temporary retention. Information about United States persons may be retained temporarily, for a period not to exceed 90 days, solely for the purpose of determining whether that information may be permanently retained under these procedures.

5. Retention of other information. Information about United States persons other than that covered by subsections C.1. through 4., above, shall be retained only for purposes of reporting such collection for oversight purposes and for any subsequent proceedings that may be necessary.

D. ACCESS AND RETENTION

1. Controls on access to retained information. Access within a DoD intelligence component to information about United States persons retained pursuant to this procedure shall be limited to those with a need to know.

2. Duration of retention. Disposition of information about United States persons retained in the files of DoD intelligence components will comply with the disposition schedules approved by the Archivist of the United States for the files or records in which the information is retained.

3. Information acquired prior to effective date. Information acquired prior to the effective date of this procedure may be retained by DoD intelligence components without being screened for compliance with this procedure or Executive Order 12333 (reference (a)), so long as retention was in compliance with applicable law and previous executive orders.